



# EAST WEST BANK

July 29, 2022

*Via Electronic Mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)*

*Via <https://www.regulations.gov>*

Ann E. Misback, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, D.C. 20551

Re: Public Comment on Proposed Rulemaking for Regulations Under the Community Reinvestment Act; Docket No. R-1723; RIN 7100-AF94

Ladies and Gentlemen:

East West Bank appreciates the opportunity to comment on the proposal by the Federal Reserve Board and other agencies for a new regulatory framework to modernize the regulations implementing the Community Reinvestment Act of 1977 (“CRA”). We agree that the current CRA regulations and guidance do not recognize the changes in the financial services industry that have occurred since the CRA was enacted in 1977.

East West Bank is minority-operated bank. We were founded in 1973 in Los Angeles to serve the financial needs of immigrants. Since then, we have grown in size with over 120 branches across the United States. The large majority of our branches are in majority-minority census tracts and over one third are in low-to-moderate income census tracts.

We are also glad that the proposed new regulatory framework recognizes the importance of minority depository institutions (“MDIs”). The current CRA framework does not take account of the special role of MDIs and in some ways actually puts greater requirements on MDIs than other banks.

We share your belief that MDIs should have a special place in CRA. Both MDIs and the CRA have a mission to serve underserved and historically disadvantaged communities. MDIs would not exist unless they were filling this need. This need is consistent with the purposes of the CRA, and we are glad that this is finally being recognized in CRA regulations.

It is also relevant to note that they also provide career opportunities for the community that might not be as available at other banks. It does not need to be pointed out that there are few if any non-MDIs where the share of senior leadership who are persons of color is greater or even the same as the population as a whole. An MDI is able to serve its community because its leadership and employees are part of that community.

There have been minority banks since the 1800's but historically they have not always been encouraged to grow or succeed by the rest of the banking industry or by regulators. For example, for years the American Bankers Association would not allow in minority banks; and for years the perception of many minority banks was that they would not be viewed as credible unless they hired a well credentialed White person in regulator-facing jobs. It is too late for minority banks to catch up to the handful of large banks with national branch and ATM networks that now dominate the banking industry, the head start has been too much. But it is encouraging that this this has been changing in recent years and that now further change is contemplated by the proposed CRA reforms.

We would like to make suggestions on some parts of the proposed new regulations that particularly affect Minority Depository Institutions.

### *Definition of Minority Depository Institution*

We support the change in the definition of minority depository institution" to expand it beyond ownership and to also refer to the FDIC's minority deposit bank program, which includes minority operated banks.

A bank that is successful and is growing needs to raise outside capital, which at some point when a bank becomes larger, usually comes from institutional investors. Thus, if a growing bank raises outside capital, it would no longer be viewed as a minority bank under the CRA under an ownership test. This would have the unintended consequence of keeping minority banks small.

Similarly, the old rule had an unintended consequence for minority banks that are in financial distress and seek equity investments from mainstream banks in order to replenish their capital. In such circumstances, existing shareholders may be diluted with the result that the bank may no longer be majority owned by minorities. Consequently, CRA regulations would not be encouraging mainstream banks to help a distressed minority bank if providing that capital made the bank no longer a minority bank because of changed ownership.

I would add that raising outside capital and becoming publicly traded is one way for a minority bank to meets its mission. Growing and being able to sometimes challenge larger banks toe-to-toe for non-minority customers makes a bank stronger and more sustainable and also gives it increased ability to better serve its core minority customer base.

### *Lending Distribution Metrics - Low to Moderate Income Areas*

The lending distribution metrics include calculations of loans to low to moderate income persons and also loans in low to moderate income areas.

The regulations as written however do not seem to reflect the diversity of lending practices by many banks, including many minority banks. Many loans are made based on criteria other than income to assess the ability to pay a loan. These alternative criteria help the ability of many to purchase a home and this should be recognized.

Income data is not collected and so as written, many loans to low-income persons would not be considered for CRA credit. The regulation as written will disqualify a vital avenue to provide home loans to LMI individuals and their families.

We would propose that a home loan or HELOC be presumed to be to a low- or moderate-income person based on the value of the house, such as a house that is less than 40% of the average home price in a metropolitan area. A 2-, 3- or 4-unit house would be divided by 2, 3 or 4 to make this determination.

*Should the agencies consider activities undertaken by an MDI or WDI to promote its own sustainability and profitability? Yes*

*If so, should additional eligibility criteria be considered to ensure investments will more directly benefit low- and moderate-income and other underserved communities? No*

Without this clarification, it appears that a mega bank will obtain CRA credit for purchasing stock in a minority bank, but that same minority bank would not get CRA credit for investments in itself. A minority bank should get credit for investing in itself, such as retaining earnings in the business to grow capital instead of dividending the earnings or repurchasing shares. Similarly, a mega bank can get CRA credit for participating in a loan with a minority bank, but that same minority bank does not also get credit for the portion of the loan not sold to the mega bank.

Moreover, without clarification, the current CRA practice will be continued that a minority bank status is disregarded in that an outreach program by a large mainstream bank to a particular ethnic group may receive CRA credit, but a program by a minority bank aimed at the same ethnic group might not receive positive mention because it is viewed as part of their business as usual and not part of their specific CRA program.

A minority bank should get credit for its own loans or its investments in itself just the same as a mainstream bank does in working with a minority or women's bank. Without such change, we believe we will see a continued decline in the number of minority banks.

The eligibility credit for an MDI "investing in itself" should not be limited to investments that directly are tied to helping LMI persons. Limiting the credit to activities that would get credit regardless of MDI status is of no benefit to MDI's and is not consistent with the purpose of helping MDI's to survive and to succeed.

Being an MDI by itself is helping a historically underserved and disadvantaged community and consistent with the purposes of the CRA. The primary reason for minority banks to exist and to be assisted by regulators is to help remedy past practices by the banking industry that have made it more difficult for minorities to achieve financial success.

### *Assessment Areas.*

MDI's have a unique place under CRA in that their focus can be more on minority groups in general than on a particular geographic area. Under the current CRA framework, we and I understand other MDIs are reluctant to make a loan outside of their CRA assessment area as this may subject them to criticism. But to best fulfil their mission, an MDI should not be so restricted. An MDI should get credit for loans to minority persons or businesses as if they were in the MDI's geographic assessment area. To state the obvious, the minority person or business would not likely be applying for a loan from a bank in another city if they felt they were adequately served by the local banks.

### *Small Business Loans*

We understand and agree with the efforts to make CRA activity easier to measure and "objective", it is important to retain flexibility for different business models and approaches. The rules sometimes appear to be written with the mega bank model in mind and incentivizing all banks to be like small versions of the mega banks. In particular, it appears that the proposed rule focuses too much on the dollar volume of small business loans as opposed to the number of small business loans made. Small business loans and micro-loans can be very important to small businesses but may not add up to a lot of dollars – 50 \$10,000 loans is only half as much as 1 \$1 million loan in dollar value but may be many times more useful in assisting the small businesses of a community, and for many lenders, at least the ones who do not rely on algorithms and on-line lending, can be much more resource intensive to do. And for MDIs, I suspect that most have a lower average loan size than a mainstream bank of similar size. The consequence of this would be to incentivizing MDIs to move away from their business model in order to ensure their "objective measurements" are as good as the mega banks, and this would be a disservice to the communities served by minority banks.

### *Definition of Domestic Deposit.*

We suggest that the definition of domestic deposit be broadened to include deposits by LLC's and trusts and not just individuals, partnerships, and corporations. This is likely the intent, but as written the definition seems to exclude many deposits that, in the spirit of CRA, are in substance domestic deposits and should be included.

We also suggest that the definition be clarified to state clearly that retail domestic deposits do not include deposits from foreign persons or entities in U.S. branches. The United States is viewed as a safe haven to deposit money for foreign persons who are transparent about their identity and source of funds. The deposits do not come from a bank's assessment area and so are not part of the purpose of CRA of returning community money to the community. Further, to the contrary, inclusion may incentivize some financial institutions to keep this money out of the United States, which is not beneficial for the United States or the goals of CRA.



### *Broader Performance Context*

The proposed new CRA regulations should clarify that performance context should look not only at the level of “CRA qualifying activities,” but also consider the harm that may be caused to the community by a bank’s practices. For example, it has been our experience that, with the new online lending platforms, loans in underserved communities are now more readily available than when the CRA rules were first written. However, the pressing need now for many in underserved communities is not only to get a loan but also to get a loan on the same rates and terms as other communities. New financial technologies that make credit more available are sometimes just a new way to keep people in the debt trap of high interest rate credit that borrowers are unlikely to ever realistically pay back. If an individual state or even the United States government, had to borrow at the same interest rate as many of its citizens do, it too would need to devote the majority of its income to making debt payments.

Accordingly, we suggest that the performance context of a bank look at all of its activities and not just at meeting the definition of “CRA qualifying activities.” For example, a bank that quickly forecloses on homeowners instead of looking for ways to help them stay in their house should not get credit for its home mortgage lending. The same is true for banks that make loans to LMI persons at higher interest rates than those charged in other communities. Finally, banks that instruct their branches to maximize overdraft and NSF fees should not receive credit for having branches in LMI areas.

We believe that MDIs have a special place in the CRA in that their mission and focus largely overlaps with the goals of the CRA. We encourage building support for MDIs into the framework of CRA regulations.

We support the comment letter of the National Banker’s Association. We also support the various comments in the letters of the California Reinvestment Coalition, Greenlining, and the National Diversity Coalition that the original purpose of the CRA to stop “redlining” of minority census tracts in order to advance racial equity and close racial wealth gaps has not been well addressed by CRA regulations and that this should become part of the new framework.

East West Bank appreciates the opportunity to comment on the proposed new CRA regulations and looks forward to working with the FRB and the other bank regulators to improve the effectiveness of the CRA.

Sincerely,



Douglas P. Krause